

resolution S. Res. 86, designating August 16, 2005, as "National Airborne Day"; as follows:

On page 5 strike lines 1 through 5 and insert the following:

(2) requests that the people of the United States observe "National Airborne Day" with other appropriate programs, ceremonies and activities.

**SA 1629.** Mr. McCONNELL (for Mr. FEINGOLD) proposed an amendment to the resolution S. Res. 104, expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities; as follows:

On page 3, line 8, to page 4, line 1, strike "in creating an online database that provides", and insert "to make readily accessible".

**SA 1630.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product caused an injury by means of a qualified product that is involved in illegal interstate firearms trafficking punishable under section 924 of title 18, United States Code.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

**SA 1631.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others;

which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product caused an injury by failing to retain for 30 days the records of a sale to an individual who is required, under regulations prescribed under section 114(h) of title 49, United States Code, to be prevented from boarding an aircraft.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

**SA 1632.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product caused an injury by failing to keep adequate records of the sale of a qualified product from the inventory or collection of the manufacturer or seller, as required under section 923(g) of title 18, United States Code.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee On National Parks of the Committee on Energy and Natural Resources has scheduled a field hearing to gather information regarding invasive species. Specific areas of interest include challenges and needs of the National Park Service, existing legislation, legislative solutions, and use of partnerships for managing invasive species in and around National Parks.

The hearing will be held on Tuesday, August 9, 2005, at 10 a.m. in the Kilauea Visitors Center auditorium, Hawaii Volcanoes National Park, Hilo, HI.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Brian Carlstrom at (202) 224-6293.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 27, 2005, at 2:30 p.m., on 1372, the Fair Ratings Act, in SR-253.

The PRESIDING OFFICER Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, July 27, 2005, at 10 a.m., to hear testimony on "Improving Quality in Medicare: The role of Value-Based Purchasing."

The PRESIDING OFFICER Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 9:30 a.m. to hold a hearing on nominations.

The PRESIDING OFFICER Without objection, it is so ordered.

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, July 27, 2005, at 10 a.m., for a hearing titled, "Chemical Facility Security: What Is the Appropriate Federal Role?, Part II."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON INDIAN AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 27, 2005, at 9:30 a.m., in room 216 of the Hart Senate Office Building to conduct an oversight hearing on lands eligible for gaming pursuant to the Indian Gaming Regulatory Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "FBI Oversight" on Wednesday, July 27, 2005, at 9:30 a.m., in Dirksen Senate Office Building room 226.

#### Witness List

Panel I: Robert Mueller, Director, Federal Bureau of Investigation, Department of Justice, Washington, DC.

Panel II: Glenn Fine, Inspector General, Department of Justice, Washington, DC; Lee Hamilton, President and Director, Woodrow Wilson International Center for Scholars, Washington, DC; William H. Webster, Partner Milbank, Tweed, Hadley & McCloy LLP, Washington, DC; and John A. Russack, Program Manager, Information Sharing Environment, Director of National Intelligence, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 27, 2005, at 2:30 p.m. to hold a briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. CORNYN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Wednesday, July 27, 2005, from 2:30 p.m. to 5 p.m., in Dirksen 106, for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON DISASTER PREVENTION AND PREDICTION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Disaster Prevention and Prediction be authorized to meet on Wednesday, July 27, 2005, at 10 a.m., on All Hazards Alert Systems, in SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON ENERGY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Energy be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 3 p.m. The purpose of the hearing is to receive testimony on recent progress in hydrogen and fuel cell research sponsored by

the Department of Energy and by private industry. Testimony will also address the remaining challenges to the development of these technologies.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Conservation, and Rural Revitalization be authorized to conduct a hearing during the session of the Senate on Wednesday, July 27, 2005, at 10 a.m. in SR-328A, Russell Senate Office Building. The purpose of this subcommittee hearing will be to discuss oversight of the Conservation Reserve Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Wednesday, July 27, 2005, at 2:30 p.m., for a hearing regarding "Who's Watching the Watchdog? Examining Financial Management at the SEC."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND TERRORISM

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on International Operations and Terrorism be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 2:30 p.m., to hold a hearing on United Nations Peacekeeping Reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that Ken Webster, a law clerk in my office, be granted privileges of the floor during the pending S. 397 or any motions related to that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. Mr. President, I ask unanimous consent that Laura Soltis of my office be granted floor privileges for this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that a fellow from my office, Julie Caruthers, be allowed floor privileges for the duration of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that Andrew Ginsburg, a fellow on my staff, be granted privileges of the floor during the remainder of the debate on S. 397.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MEDICAL DEVICE USER FEE STABILIZATION ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3423 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3423) to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I rise today to voice my support for the Medical Device User Fee Stabilization Act of 2005. This legislation preserves a valuable program for the review of innovative medical technologies.

This bill, H.R. 3423, is identical to S. 1420, which was reported last week by the Committee on Health, Education, Labor, and Pensions. It represents a bipartisan, bicameral compromise that had unanimous support when it was reported out of the committee. It keeps an important Government program going, while providing more stability for the industry. We have considered the needs of small and large businesses, all while ensuring that FDA has enough resources to maintain a high level of effectiveness.

This compromise results in an 8.5 percent increase in user fees for each of the next 2 years. This is a significant reduction from the 20 percent annual increases these companies have been seeing. We have also raised the small business threshold more than threefold, from \$30 million to \$100 million. This means that additional companies will be able to take advantage of reduced fees for the review of new devices. This bill will result in an average increase to FDA of 6 percent in user fee revenues over the next 2 years, which means FDA will be able to continue reviewing new devices and will not be forced to lay off experienced FDA staff or wind down a program that has been successful.

Finally, this compromise clarifies a provision in the 2002 medical device law regarding the marking of reprocessed devices. I know that this provision, and any change to it, is controversial. However, we have found a fair way forward. The bill we are considering today would require reproducers to mark the device to identify the reprocessor, if the original manufacturer has marked the device. If the original manufacturer has not marked the device, the reprocessor must still mark the device but has more flexibility in how to do so. This is workable, and it is even-handed.

My colleagues, Senators BURR, DEWINE, MIKULSKI, DODD and MURRAY, have had great interest in the medical device user fee program, and I thank them for cosponsoring the Senate bill.

I would also like to thank Senator HATCH for his attention and input into